

Serial No.: 10/826,278
Docket No.: 101-1025
Amendment After Final dated January 8, 2008
Reply to the Final Office Action of October 16, 2007

REMARKS

Introduction

Claims 19-21 are allowed. Applicant notes with appreciation the Examiner's indication that claims 4-13 would be allowable if rewritten in independent form.

Claims 1-26 are pending in the application. No amendments are being made to the subject patent application in this response and no new matter is being presented. In view of the following remarks, reconsideration and allowance of all the pending claims are requested.

Rejection under 35 USC §103

Claims 1-3, 14-18 and 22-26 have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 7,081,891 to Schermerhorn (hereinafter "Schermerhorn") in view of Japanese Publication No. 11-231829 to Kenji (hereinafter "Kenji"). Applicant respectfully traverses these rejections for at least the reasons discussed below.

Claims 1, 14, 22, 24, and 26

In the Official Action, the Examiner cites Schermerhorn as allegedly teaching a single-sided driver used with a display panel that establishes current in current flow paths to generate predetermined driving voltage waveforms required for both X and Y electrodes. The Examiner acknowledges that Schermerhorn fails to teach current flow paths coupled to each of X and Y electrodes (see Detailed Action, page 4, lines 1-2), switching elements that establish flow paths (see Detailed Action, page 6, line 5), and switching currents between current flow paths (see Detailed Action, page 8, line 6). The Examiner cites Kenji as teaching "a first switchable current path z1 and a second current path z2 ... between a power source line 51 and a terminal px to apply electric voltage to each cell in common with one another," and takes the position that "it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Schermerhorn's single driver circuit 30 shown in Fig. 4 with Kenji's first switchable current path z1 and the second current path z2, because the use of first switchable current path z1 and the second current path z2 helps reduce unnecessary electromagnetic radiation in a plasma display system as taught by Kenji." See Detailed Action, pages 4, 6, and 8.

Applicant respectfully reminds the Examiner of MPEP § 2143, which states, in part, "[t]he

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key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. The Supreme Court in *KSR* noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit." The mere conclusory statement, "because the use of the first switchable current path z1 and the second current path z2 helps reduce unnecessary electromagnetic radiation," is neither a clear articulation of the reasoning behind a conclusion of obviousness nor explicit analysis of how such a conclusion was reached.

With regard to the citation of Kanji to allegedly teach structure and functionality lacking in Schermerhorn, MPEP § 706.02 provides that:

Prior art uncovered in searching the claimed subject matter of a patent application often includes English language abstracts of underlying documents, such as technical literature or foreign patent documents which may not be in the English language. When an abstract is used to support a rejection, **the evidence relied upon is the facts contained in the abstract, not additional facts that may be contained in the underlying full text document.** Citation of and reliance upon an abstract without citation of and reliance upon the underlying scientific document is generally inappropriate where both the abstract and the underlying document are prior art. See Ex parte Jones, 62 USPQ2d 1206, 1208 (Bd. Pat. App. & Inter. 2001) (unpublished). To determine whether both the abstract and the underlying document are prior art, a copy of the underlying document must be obtained and analyzed. If the document is in a language other than English and the examiner seeks to rely on that document, **a translation must be obtained so that the record is clear as to the precise facts the examiner is relying upon in support of the rejection.** The record must also be clear as to whether the examiner is relying upon the abstract or the full text document to support a rejection. The rationale for this is several-fold. It is not uncommon for a full text document to reveal that the document fully anticipates an invention that the abstract renders obvious at best. The converse may also be true, **that the full text document will include teachings away from the invention that will preclude an obviousness rejection under 35 U.S.C. 103,** when the abstract alone appears to support the rejection. An abstract can have a different effective publication date than the full text document. Because all patentability determinations are fact dependent, obtaining and considering full text documents at the earliest practicable time in the examination process will yield the fullest available set of facts upon which to determine patentability, thereby improving quality and reducing pendency. When both the abstract and the underlying document qualify as prior art, the underlying document should normally be used to support a rejection. In limited circumstances, it may be appropriate for the examiner to make a **rejection in a non-final Office action** based in whole or in part on the abstract only without relying on the full text document. In such circumstances, the

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full text document and a translation (if not in English) may be supplied in the next Office action. Whether the next Office action may be made final is governed by MPEP § 706.07(a). (Emphases added).

The Examiner appears to use Kanji's purported reduction in radiation as rationale to combine the alleged switchable current path capabilities therein with the single sided driver structure of Schermerhorn. However, the abstract of Kanji does not provide any detail as to, for example, the timing of its generated voltage waveforms and the impedance differences between current paths such that interoperability with Schermerhorn's driver circuit is ensured in view of the resonant requirements thereof. Thus, it is apparent from the abstract itself that the **full text document is required** to support *prima facie* obviousness, and it is respectfully requested that such be entered into the record if the Examiner is to maintain reliance thereon. Moreover, Applicant objects to the use of the English abstract of a foreign document in a final rejection of claims, which contravenes the MPEP guidelines, as highlighted above. Thus, it is requested, respectfully, that the finality of the outstanding Office Action be withdrawn, for at least the reason that Applicant has not been presented with the precise facts underlying the rejections of the subject claims in view of Kanji.

The foregoing evidentiary shortcomings notwithstanding, Applicant will address the merits of the Examiner's proposed modification of Schermerhorn by Kanji to the extent possible so as to forward the prosecution of the subject patent application towards a favorable conclusion. As stated in the Response of August 1, 2007:

[T]he Schermerhorn system of FIG. 4 appears to provide input on the single input port A based on a circuit model of the interior structure of the PDP and an input signal response fed back to a controller, which can be adjusted to meet requirements of the model. The model of the PDP in Schermerhorn, i.e., the structure interior to the dotted line at 14 in FIG. 4, assumes a connection to ground at one of its input ports, such that **controlling the electrodes separately is precluded**. (Emphasis added)

The internal model of the PDP is necessary to Schermerhorn, and bypassing the modeled characteristics thereof to implement switchable current paths directly connected to the electrodes, as suggested by the Examiner, would violate a designed operating principle thereof. As the Examiner is aware, "[i]f the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of

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the references are not sufficient to render the claims *prima facie* obvious." In re Ratti, 270 F.2d 810, 123 USPQ 349 (CCPA 1959). Thus, no reference allegedly disclosing switchable current paths connected to the electrodes of a PDP can be properly combined with Schermerhorn to support *prima facie* obviousness of the subject claims.

It is respectfully submitted that Schermerhorn, Kanji, and the combination thereof fails to teach or suggest the full combination of features recited in independent claims 1, 14, 22, 24, and 26. As the Examiner will recall, "[t]o support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references." Ex parte Clapp, 227 USPQ 972, 973 (Bd. Pat. App. & Inter. 1985). Thus, for at the reasons that the references fail to disclose or suggest the full recitations of the subject claims, and a clear line of reasoning supporting obviousness has not been presented, withdrawal of the rejections and allowance of independent claims 1, 14, 22, 24, and 26 are earnestly solicited.

Claims 2-13, 15-18, 23, and 25

Dependent claims 2-13 are ultimately dependent from independent claim 1, dependent claims 15-18 are ultimately dependent from independent claim 14, dependent claim 23 is ultimately dependent from independent claim 22, and dependent claim 25 is dependent from independent claim 24. Each of the subject dependent claims incorporate all of the elements, operations, and limitations of the independent claim from which they respectively depend. "If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious." In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). Thus, the subject dependent claims are nonobvious for at least the same reasons for which their respective independent claims are nonobvious. Accordingly, withdrawal of the rejections and allowance of dependent claims 2-13, 15-18, 23, and 25 are earnestly solicited.

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Conclusion

It is respectfully submitted that a full and complete response has been made to the outstanding Office Action and, as such, there being no other objections or rejections, this application is in condition for allowance, and a notice to this effect is earnestly solicited.


If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided below.

If any further fees are required in connection with the filing of this amendment, please charge the same to out Deposit Account No. 502827.

Respectfully submitted,

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